right of the people peaceably to assemble and to petition the government for a redress of grievances."

Said ordinance is also contrary to and in violation of the fourteenth amendment to the Constitution of the United States, which had the effect of making the said first amendment applicable to the States, and which reads:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law."

Said ordinance absolutely prohibits the distribution of any literature of any kind within the limits of the City of Griffin without the permission of the City Manager and thus abridges the freedom of the press, contrary to the provisions of said quoted amendments.

Said ordinance also prohibits the free exercise of petitioner's religion and the practice thereof by prohibiting the distribution of literature about petitioner's religion in violation of the terms of said quoted amendments.

3. Because said ordinance is void in that it limits, curtails, and restrains the liberty of the press, contrary to and in violation of Article 1, Section 1, Paragraph 15, of the Constitution of Georgia, which reads:

"No law shall ever be passed to curtail or restrain the liberty of speech *of or* the press; any person may speak, [fol. 6] write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty."

4. Because said ordinance is void in that it prohibits the free exercise of defendant's religion and the practice thereof and seeks to control the right of defendant to worship God according to the dictates of her own conscience by prohibiting the circulation of literature about defendant's religion, contrary to and in violation of Article 1, Section 1, Paragraph 12, of the Constitution of Georgia, which reads:

"All men have the natural and inalienable right to worship God, each according to the dictates of his own conscience, and no human authority should in any case control or interfere with such right of conscience."

5. Because the ordinance is void for the reason that it conflicts with a valid law of the State of Georgia providing how nuisances may be abated, and the recorder has no authority under the law to fine defendant for maintaining a nuisance, and no fine can legally be placed on defendant for maintaining a nuisance until after a proceeding to abate the nuisance has been had. The law with which said ordinance conflicts is set out in Acts of 1892, p. 64, Section 5331 of Michie's Code of Georgia, and reads:

"If a nuisance complained of exists in a town or city under the government of a mayor, intendant, alderman, wardens, or a common council, or commissioners, such nuisance, by and with the advice of said aldermen, wardens, council, or commissioners, may be abated and removed by order of said mayor, intendant, or commissioners; but if the nuisance complained of exists in a city having a population of twenty thousand or more, the police court of such city, whether known as mayor's or recorder's court or otherwise designated, shall have jurisdiction to hear and determine the question of the existence of such nuisance, and, if found to exist, to order its abatement, which order shall [fol. 7] be directed to and executed by the sheriff or the marshall of said town or city, or his deputy."

Said ordinance also conflicts with section 681 of the Penal Code (Michie's), which reads:

"Any person who shall erect, or continue after notice to abate, a nuisance which tends to annoy the community, or injure the health of the citizens in general, or to corrupt the public morals shall be guilty of a misdemeanor."

6. Said ordinance is void for the reason that the maintaining of a nuisance is a violation of the law of the State as quoted in paragraph 5 hereof, and the commissioners of the City of Griffin were without authority of law to enact said ordinance and make a violation thereof an offense against the City of Griffin which could be punished by the recorder of said City by fine or imprisonment.

JUDGMENT

The court overruled this demurrer and proceeded with the trial of the case. After hearing the evidence in said case, the said acting recorder adjudged defendant guilty of a violation of said City ordinance quoted herein and imposed a sentence of fifty days in jail, in default of the payment of a fine of fifty dollars, against petitioner.

Said final sentence of the said acting recorder and the judgment overruling petitioner's demurrer were both adverse to your petitioner and she is dissatisfied therewith, and now, within thirty days from the final determination of said cause, petitioner having complied with all the requirements of law in such cases provided, presents this petition for writ of certiorari, in which petition she here and now proceeds plainly, fully, and distinctly to set forth the nature of said cause, what occurred on said trial, and the errors complained of.

The following evidence was introduced:

[fol. 8] J. T. WILSON, a witness for the City of LaGrange, testified as follows:

My name is J. T. Wilson, I am a police officer of the City of Griffin. On April 20, 1936 I saw the defendant, Alma Lovell, in the City of Griffin at 415 West Solomon Street, at Mrs. Smith's house. This lady came up Solomon Street and went to Mrs. Smith's house and knocked on the door. She stuck a pamphlet in the mail box. When Mrs. Smith came to the door this lady took the pamphlet out of the box and handed it to her, and also gave her a "Golden Age Magazine." Mrs. Smith told her that she did not have time to read and did not care to fool with it. When she came off Mrs. Smith's porch, I walked up to her and told her that I would have to take her to the station house. She asked me if I had a warrant for her arrest, and I told her that I did not have to have a warrant to arrest her in the City of Griffin for violating a city ordinance. I could not hear what she said to Mrs. Smith. I was about fifty feet away. I do not actually know what she put in the mail box. It was about so long (indicating a few inches with his hands.") I did not look at it or examine it. I just saw her put the pamphlet in the mail box. I did not understand anything said between the two ladies, only something about some books. The defendant had a little

red book and a magazine called the "Golden Age". That is a copy of the magazine she had here in court. (The magazine was introduced in evidence, but is not copied herein for the reason that the defendant admitted and now admits that she distributed the character of literature attempted to be covered by the ordinance, and the contents of the magazine in full are deemed immaterial.) I did not search her.

[fol. 9] R. A. Drake, a witness for the City, testified as follows:

I am the City Manager of the City of Griffin and every one applies to me for a license to distribute literature in this City. None of these people (including defendant) secured a permit from me to distribute literature in the City of Griffin.

The defendant admitted in open court, through her counsel that she distributed the literature as alleged, and that she did not have a permit to do so from the City Manager of the City of Griffin.

The defendant made a statement, a copy of which is attached hereto, marked "Exhibit A," and made a part of this petition.

This concluded the evidence, whereupon the recorder imposed the sentence hereinbefore set out. Petitioner now brings this sentence and judgment of the said acting recorder before the Superior Court of Spalding County, Georgia, for review, and says that the same is illegal because of the errors hereinafter set forth, to wit:

Assignments of Error

1. Because the said judgment is contrary to law and without evidence to support it.

2. Because the court erred in overruling petitioner's demurrer to the accusation against her on the ground that the said judgment and ruling is contrary to law, and the court should have sustained said demurrer for each and all of the reasons set out in said demurrer.

3. Because the said acting recorder was without authority under the law to impose the sentence on petitioner for the reason that the ordinance, for a violation of which petitioner was tried, provides no penalty and does not author-

ize the recorder either to fine or to imprison a person convicted thereunder.

4. Because, under the evidence, even if the ordinance [fol. 10] should be held to be valid, the most that the recorder could do would be to refer the matter to the mayor, city manager, and commissioners in a proceeding to abate the nuisance. It is here set forth that Griffin, Georgia, is a City of less than twenty thousand population.

5. Because the evidence shows without conflict a violation of law, if any existed, was a violation of the two sections of the Code of Georgia quoted in this petition for certiorari, and the recorder was without authority to sentence petitioner to either fine or imprisonment for a violation of such State law.

Petitioner shows, that, desiring to certiorari said case, she has executed and filed with the Clerk of the Recorder's Court of said City of Griffin her affidavit giving notice of her intention to certiorari said case, copy of which is attached, marked "Exhibit B", and made a part of this petition.

Petitioner has given bond in the amount assessed by said acting recorder who tried petitioner for petitioner's appearance to abide the final order, judgment, or sentence of the court in said case, which bond has been attested and approved and accepted by the Clerk of said Recorder's Court. A certified copy of said bond is hereto attached, marked "Exhibit C", and made a part of this petition.

Petitioner attaches hereto a certificate of the Clerk of the Recorder's Court of the City of Griffin, certifying that said bond has been approved and accepted by said Clerk and filed with him as by statute provided. Said certificate is marked "Exhibit D", and made a part of this petition.

Wherefore, petitioner prays that the State's writ of certiorari do issue, directed to Honorable D. R. Cumming, acting Recorder as aforesaid, requiring him to certify and send up all proceedings in said case to the next term of the Superior Court of said County, that such judgment [fols. 11-12] may be rendered therein as may seem in accordance with law.

John O. Owen, Attorneys for Petitioner, 432 Peachtree Arcade, Atlanta, Georgia.

Duly sworn to by Alma Lovell. Jurat omitted in printing.

[fol. 13] IN SUPERIOR COURT OF SPALDING COUNTY

ORDER REFUSING SANCTION OF PETITION

The foregoing petition for certiorari read and considered. While this Court may not take cognizance of municipal ordinances the Recorder's Court may do so and it may properly be assumed by me that there existed such ordinance prescribing a penalty to be imposed where one is convicted of "an offense against the City of Griffin" and that the Recorder's Court did not exceed this penalty in its sentence now complained of. I know of no reason why the City by ordinance may not declare certain acts to be "nuisances", provided, of course, there is no conflict between the ordinance and State law—there is no such conflict here. For no reason alleged in the petition is this ordinance "unconstitutional".

Sanction of the petition is refused. This the 2 day of July, 1936.

Wm. E. H. Searcy, Jr., Judge.

[fol. 14] EXHIBIT "A" TO PETITION

I am consecrated to Jehovah God and worship God in spirit and in truth, am an ordained minister of Jehovah God, sent forth by His command to preach the gospel of God's kingdom under Christ Jesus, and am therefore one of Jehovah's witnesses. I worship Almighty God by obeying His commandments to go from place to place and tell others of God and His kingdom. My work as such minister is done under the direction of the Watch Tower Bible & Tract Society, which is a corporation organized under the laws of Pennsylvania, the chartered purpose being as follows:

"The purpose for which the corporation is formed is the dissemination of Bible truths in various languages by means of the publication of tracts, pamphlets, papers, and other religious documents, and by the use of all other lawful means, which its Board of Directors, duly constituted, shall deem expedient for the furtherance of the purpose stated."

I have an identification card from the Society which is offered in evidence. On the other side of this card is a

statement, which we call a testimony, concerning the books and booklets which are used in preaching the gospel. This is also offered in evidence. As I went from door to door I presented this card to the people and asked them to read it.

At the time of my arrest I was engaged in preaching the gospel of God's kingdom. This gospel concerns the kingdom for which people have prayed for centuries, that the will of God might be done on earth as it is done in heaven. We bring to the people the proofs that the time is at hand for the establishment of the kingdom of Jehovah God. The present disturbed condition of the nations, with the perplexity and distress prevailing among the people, are among the evidences that Satan's rule over the earth is [fol. 15] nearing its end, and will be followed by God's kingdom which will bring righteousness and peace to all people who are willing to hear and obey Almighty God.

I was doing this work in obedience to God's law which says, "And this gospel of the kingdom shall be preached in all the world for a witness unto all nations; and then shall the end come." (Matthew 24:14.) I am a Christian and have entered into a covenant or agreement to do the will of God and obey His commandments. Therefore it is incumbent upon me to obey His mandate to preach the gospel. "For necessity is laid upon me; yea, woe is unto me, if I preach not the gospel." (1 Corinthians 9:16.) Other commands to preach are found in the Bible at Isaiah 61:1-3, Isaiah 43:10-12, John 18:37, and 1 Peter 2:21, which are as follows:

The Spirit of the Lord God is upon me; because the Lord hath annointed me to preach good tidings unto the meek; he hath sent me to bind up the broken-hearted, to proclaim liberty to the captives, and the opening of the prison to them that are bound: To proclaim the acceptable year of the Lord, and the day of vengeance of our God; to comfort all that mourn: To appoint unto them that mourn in Zion, to give unto them beauty for ashes, the oil of joy for mourning, the garment of praise for the spirit of heaviness: that they might be called trees of righteousness, the planting of the Lord, that he might be glorified.

Ye are my witnesses, saith the Lord, and my servant whom I have chosen; that ye may know and believe me, and understand that I am he: before me there was no God

formed, neither shall there be after me. I, even I, am the Lord; and beside me there is no savior. I have declared, and have saved, and I have shewed, when there was no strange god among you: therefore ye are my witnesses, saith the Lord, that I am God.

[fol. 16] Pilate therefore said unto him, Art thou a king then? Jesus answered, Thou sayest that I am a king. To this end was I born, and for this cause came I into the world, that I should bear witness unto the truth. Every one that is of the truth heareth my voice.

For even hereunto were ye called: because Christ also suffered for us, leaving us an example, that ye should follow his steps.

I was going from house to house just as Christ Jesus and His disciples did. (Matthew 10:7-15; Acts 20:20.)

And as ye go, preach, saying, The kingdom of heaven is at hand. Heal the sick, cleanse the lepers, raise the dead, cast out devils; freely ye have received, freely give. Provide neither gold, nor silver, nor brass in your purse. Nor scrip for your journey, neither two coats, neither shoes, nor yet staves: for the workman is worthy of his meat. And into whatsoever city or town ye shall enter, enquire who in it is worthy; and there abide till ye go thence. And when ye come into and house, salute it. And if the house be worthy, let your peace come upon it; but if it be not worthy, let your peace return to you. And whosoever shall not receive you, nor hear your words, when ye depart out of that house or city, shake off the dust of your feet. Verily I say unto you, It shall be more tolerable for the land of Sodom and Gomorrah in the day of judgment, than for that city.

And how I kept back nothing that was profitable unto you, but have shewed you, and have taught you publicly, and from house to house.

I am commanded by God's word to follow in the footsteps of Jesus and preach the gospel as He did. (1 Peter 2:21.)

For even hereunto were ye called: because Christ also suffered for us, leaving us an example, that ye should follow his steps.

If I did not obey these commandments I would in due [fol. 17] time be eternally destroyed. (Acts 3:22, 23.)

For Moses truly said unto the fathers, A prophet shall the Lord your God raise up unto you of your brethern, like

unto me; him shall ye hear in all things whatsoever he shall say unto you. And it shall come to pass, that every soul, which will not hear that prophet shall be destroyed from among the people.

I offer in evidence the Word of God, the Bible.

At the time of my arrest I had been calling on people at their homes. I told them about the kingdom of Jehovah. I displayed to them books and booklets which explain the gospel of the Kingdom, and gave them opportunity to secure this printed message. I further offered the people invitations to hear the Kingdom message over the radio. The books and booklets I displayed to the people are offered in evidence.

The act for which I was arrested was an act of worship of Almighty God. Preaching the gospel is part of my sincere worship of Jehovah. To worship doesn't mean to go to church or go through some religious ceremony. It does mean to obey and serve God because of unselfish love and devotion to Him. I was thus worship-ing God as commanded in His Word and in accordance with the dictates of my conscience.

I did not ask for a permit, because I am sent by Jehovah to do His work. His law is supreme and above every human law. To apply for a permit to do His work would be an act of disobedience to His commandment. It would be an insult to the Most High which would in time result in my eternal destruction.

I am very willing to obey all laws which do not conflict with the law of God. I am commanded in the Bible to "render unto Caesar (the worldly governments) the things which be Caesar's, and unto God the things which be God's". By preaching the gospel of God's kingdom from house to house I am rendering unto God the things which [fol. 18] be God's, and no earthly power can rightly interfere with my so doing.

The Bible plainly points out that cases similar to this one now before this court would arise in these present days, because, in Mark 13:9, as an admonition to Jehovah's witnesses, are written these words: "But take heed to yourselves; for they shall deliver you up to councils (courts); and in the synagogues ye shall be beaten; and ye shall be brought before rulers and kings for my sake, for a testimony against them."

The question at issue is not a new one. The early disciples of Jesus were brought into court on a charge identical with the one before this court. The disciples Peter and John were the defendants in that case, and it is recorded, in Acts 4:19, that they answered the court in these words: "Whether it be right in the sight of God to hearken unto you more than unto God, judge ye."

When again these two disciples were brought into court on a like charge, a member of that court gave wise counsel to his fellow members of the council, and his language is recorded at Acts 5:34-39, to wit:

"Then stood there up one in the council, a Pharisee, named Gamaliel, a doctor of the law, had in reputation among all the people, and commanded to put the apostles forth a little space; and said unto them, Ye men of Israel, take heed to yourselves what ye intend to do as touching these men. For before these days rose up Theudas, boasting himself to be somebody; to whom a number of men, about four hundred, joined themselves; who was slain; and all, as many as obeyed him, were scattered, and brought to nought. After this man, rose up Judas of Galilee, in the days of the taxing, and drew away much people after him: he also perished; and all, even as many as obeyed him, were dispersed. And now I say unto you, Refrain from these men, and let them alone: for if this counsel or this work be of men it will come to nought; but if it be of God, ye [fol. 19] cannot overthrow it; least haply ye be found even to fight against God."

As a defendant before this court I stand exactly in this position, and freely admit that at the time of being arrested I was going from house to house, preaching the gospel of Jehovah's kingdom by means of exhibiting to the people that gospel message in printed form. I was not selling books, or soliciting for any commercial purpose. The State is expressly estopped from interfering with this work, by virtue of the fundamental law of the state and the nation. If the state or municipality has no legal right to interfere with such preaching of the gospel, then manifestly no one of the state or municipality could have any right or authority to issue a permit to do this very thing.

I must obey Jehovah God's law because it is superior to any law that man can make; and if the court insists upon inflicting punishment upon me because I am obeying God,

then the court must take the responsibility before Jehovah God. I therefore submit my case.

[fol. 20] EXHIBIT "B" TO PETITION

Case No. —

CITY OF GRIFFIN

vs.

ALMA LOVELL

In the Recorder's Court of the City of Griffin. Accusation or Charges—Violation of 1936 Ordinance Regulating Distribution of Literature

GEORGIA,
Spalding County:

Comes now the Defendant named in the above stated case, and being dissatisfied with the judgment rendered therein, and being sworn on oath, says that * * * she intends to certiorari said case to the Superior Court, and to apply to the Judge of the Superior Court for the grant of a writ of certiorari: Affiant says * * * he has not had a fair trial, and that she has been wrongfully and illegally convicted, and files this notice as required by law, for a stay of the execution of the sentence in the said case until she can obtain a writ of certiorari in said case.

Alma Lovell.

Sworn to and subscribed before me this 29th day of June, 1936. Louise Smith, Notary Public, State at Large. My commission expires 5/19/1940.

[fol. 21] EXHIBIT "C" TO PETITION

GEORGIA,
Spalding County:

We, Alma Lovell, as principal, and the undersigned as security, acknowledge ourselves jointly and severally bound

unto the City of Griffin in the sum of $65.00 subject to the following conditions, to-wit: The Principal of this bond having been on the 29th day of June, 1936, convicted in the Recorder's Court of the City of Griffin for violating Section Ordinance Jan. 28, 1936 distributing literature in the City of Griffin and having been given a sentence of 50 days in the City Stockade or pay a fine of $50.00 and her bond being assessed at $65.00, the said Principal having filed notice of intention to certiorari said case as by law provided: Now, if the said Alma Lovell shall personally appear and abide the final order, judgment or sentence upon her in said case, then this bond to be void, else of force.

Witness our hands and seals 29 day of June, 1936.

Alma Lovell, Principal. (Seal.) Lamar Clay, Security. (Seal.)

Approved: (Signed) D. R. Cumming, Judge Protem. (Signed) R. A. Drake, Clerk Recorder's Court, City of Griffin.

[fol. 21a] EXHIBIT "D" TO PETITION

GEORGIA,
Spalding County,
City of Griffin:

I, R. A. Drake, Clerk of the Recorder's Court of the City of Griffin, Georgia, do hereby certify that Alma Lovell, petitioner in the foregoing petition for certiorari, has filed with me as Clerk as aforesaid a bond as fixed by law, conditioned that she will appear personally and abide the final judgment, order or sentence of the court in said case; and that I, as Clerk as aforesaid, have attested, accepted, and approved said bond as approved by the Judge. I further certify that Exhibit C attached to the foregoing petition is a true and correct copy of the original bond referred to above and which has been filed with me.

This the 2nd day of July, 1936.

R. A. Drake, Clerk of Recorder's Court of the City of Griffin, Georgia.

Due and legal service of notice of the order refusing sanction of the foregoing petition for certiorari is hereby

acknowledged. All other and further service and notice is hereby waived.

This the 2 day of July, 1936.

J. O. Futral, City Attorney of the City of Griffin, and Attorney of Record for Defendant in Certiorari.

[fols. 22-23] [File endorsements omitted.]

[fol. 24] IN COURT OF APPEALS OF GEORGIA

25850

LOVELL

v.

CITY OF GRIFFIN

OPINION

By the Court:

MACINTYRE, J.:

1. There was no conflict between the law as embodied in the Code, §§72-401, 72-9901, and the municipal ordinance as follows: "Be it ordained by the Board of Commissioners of the City of Griffin: Section 1: That the practice of distributing either by hand or otherwise, circulars, handbooks, advertising, or literature of any kind, whether said articles are being delivered free, or whether same are being sold, within the limits of the City of Griffin, without first obtaining written permission from the City Manager of the City of Griffin, such practice shall be deemed a nuisance, and punishable as an offense against the City of Griffin. Section 2: The Chief of Police of the City of Griffin and the police force of the City of Griffin are hereby required and directed to suppress the same and to abate any nuisance as is described in the first section of this ordinance."

2. The ordinance is not unconstitutional because it abridges the freedom of the press or prohibits the distribution of literature about the petitioner's religion, in violation of the fourteenth amendment to the constitution of the

United States, (Code, § 1-815). See Coleman v. Griffin, 55 Ga. App. 123 (189 S. E. 427). The ordinance is not attacked on the ground that it arbitrarily grants to the city manager the power to grant or refuse a license at will, such power being uncontrolled by any rule or standard or provision for review.

3. The charge that an ordinance is void because it violates a designated, numbered article, section, and paragraph of the constitution of the State of Georgia or of the United States, and then quotes the part of the constitution attacked, without stating wherein it violates the provision of the constitution, is too indefinite to invoke a ruling upon [fol. 25] the constitutionality of the ordinance. Curtis v. Helen, 171 Ga. 256 (155 S. E. 202).

4. "In the trial before a municipal court, the recorder, or the presiding judge, may take judicial notice of the ordinances of the city defining offenses against the same." Bateman v. Atlanta, 51 Ga. App. 10 (179 S. E. 403).

5. The judge of the superior court did not err in refusing to sanction the petition for certiorari.

Judgment affirmed. Broyles, C. J., and Guerry, J., concur.

[fols. 26-36] IN COURT OF APPEALS OF GEORGIA

ALMA LOVELL

v.

CITY OF GRIFFIN

JUDGMENT—March 11, 1937

This case came before this court upon a writ of error from the superior court of Spalding county; and, after argument had, it is considered and adjudged that the judgment of the court below be affirmed.

Broyles, MacIntyre and Guerry, JJ., concur.

[fols. 37-38] IN SUPREME COURT OF GEORGIA

ALMA LOVELL

v.

CITY OF GRIFFIN

ORDER DENYING CERTIORARI—May 18, 1937

Upon consideration of the application for certiorari filed to review the judgment of the Court of Appeals in this case, it is ordered that the writ be hereby denied. All the Justices concur, except Russell, C. J., who dissents, and Beck, P. J., absent on account of illness.

Clerk's certificate to foregoing paper omitted in printing.

Filed in office May 31, 1937. Morgan Thomas, Deputy Clerk Court of Appeals of Georgia.

[fol. 39] IN SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER ALLOWING APPEAL—Filed July 15, 1937.

The appellant in the above entitled suit, has prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment made and entered in the above entitled suit by the Court — Appeals of the State of Georgia on the 11th day of March, 1937, and from each and every part thereof, and having presented and filed her petition for appeal, assignment of errors, prayer for reversal and statement as to Jurisdiction, pursuant to the statutes and the rules of the Supreme Court of the United States in such cases made and provided:

It is now therefore ordered that an appeal be and the same is hereby allowed to the Supreme Court of the United States from the Court of Appeals of the State of Georgia in the above entitled cause, and that said appeal shall act as a supersedeas, the bond herewith presented being approved and that said supersedeas shall stay the enforcement of the judgment rendered against the said Alma Lovell, appellant, until further order of this court, and it is

further ordered that the Clerk of the Court of Appeals of the State of Georgia shall prepare and certify a transcript of the record, proceedings and judgment in this cause and transmit the same to the Supreme Court of the United States so that he shall have the same in said court within forty (40) days of this date.

And it is further ordered that security for costs on appeal be fixed in the sum of two hundred and fifty ($250.00) dollars.

Dated: July 13, 1937.

Nash R. Broyles, Chief Judge of the Court of Appeals of the State of Georgia.

[File endorsement omitted.]

[fol. 40] IN COURT OF APPEALS OF GEORGIA

[Title omitted]

ASSIGNMENT OF ERROR ON APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed July 15, 1937

Appellant assigns as error the decision of the Court of Appeals of Georgia, affirming the judgment of Honorable William E. H. Searcy, Jr., Judge of the Superior Court of the Griffin Circuit, refusing the grant of writ of certiorari asking to review the judgment of W. H. Beck, Jr., recorder of the City of Griffin, convicting the appellant of a violation of an ordinance of the City of Griffin for the distribution of religious literature as a part of her missionary activities in the City of Griffin without having first obtained a permit from the City Manager of the City of Griffin in pursuance of ordinance of said city, and appellant says that the Court of Appeals of Georgia erred in affirming said judgment under which appellant was sentenced to pay a fine of fifty dollars or in default thereof to be confined in the City jail for fifty days for that said ordinance is void and the appellant will be deprived of her liberty and property without due process of law and without the equal protection of the law contrary to the Fourteenth Amendment to the Constitution of the United States and the First Amendment to the Constitution of the United States, in

that in its decision and judgment the Court of Appeals of Georgia erred.

1. In holding that said ordinance of the City of Griffin was valid as against the acts of appellant, complained of, done in obedience to the mandate of the Most High God Jehovah, whose laws and commandments are superior to all human laws, ordinances, statutes, or regulations, to the contention of appellant, that said ordinance of the City of [fol. 41] Griffin in prohibiting the circulation of all printed matter without first securing a permit from the city manager was arbitrary, capricious and unreasonable and set up a prohibition bearing no relationship to public health, morals or welfare or any matter within the domain of the police power, and hence deprived both appellant and others similarly situated the free exercise of religion, right of worship, their liberty and property without due process of law and in violation of the constitutional provision aforesaid.

2. In holding said ordinance valid as against the acts of appellant in performing her duties as a minister of the gospel and as a missionary, in that said ordinance is in conflict with the provisions of the Constitution of the United States, guaranteeing freedom of worship in accordance with the dictates of conscience as set out in the First Amendment to the Constitution of the United States to the effect that "Congress shall make no laws respecting the establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances," and, which said rights are guaranteed from invasion by the states through the Fourteenth Amendment.

3. In holding said ordinance valid as against the acts of appellant in depriving her the liberty of engaging in the necessary work of calling upon the people and freely giving to them literature and magazines explaining the doctrines and tenets of her Christian belief, and the free exercise of her religious belief and practice, and freedom of worship, it appearing that the acts of this appellant were in no way unmoral, criminal, or against the good taste or sense of propriety, or dignity of the state, in that said ordinance is in conflict with the provisions of the Fourteenth Amend-

ment to the Constitution of the United States, providing that "no state shall deprive any person of life, liberty or happiness without due process of law."

4. In holding that said ordinance is valid as against the acts of appellant in that said ordinance was arbitrary and placed in the discretion of the City Manager of the City [fol. 42] of Griffin unlimited and restrained powers, in that said ordinance did not set up any standards regulating the application of said ordinance, and that said ordinance fixed no rule for the guidance or control of the City Manager of the City of Griffin in granting or refusing permits, and said ordinance did not set up any standard regulating the application of said ordinance to acts which are unmoral or against the peace, good order, and dignity of the state, and said ordinance is in violation of the due process clause of the Constitution of the United States on that account.

5. In holding that "the said ordinance is not unconstitutional because it abridges the freedom of the press or prohibits the distribution of literature about petitioner's religion in violation of the Fourteenth Amendment of the Constitution of the United States," to the contention of appellant that said ordinance of the City of Griffin in prohibiting the circulation of all printed matter without first securing a permit from the city manager was arbitrary, capricious and unreasonable and set up a prohibition bearing no relation to public health, morals or welfare or any matter within the domain of the police power and hence deprived appellant and others similarly situated the right of freedom of the press and the right to freely circulate printed tracts pertaining to her Christian practice and sincere worship in violation of the First Amendment and the "due process of law" Clause of the Fourteenth Amendment of the Constitution of the United States.

6. In failing and refusing to pass upon and to decide the contention of the appellant that said ordinance was void and invalid and for the reason, as set forth in petition for certiorari, that "said ordinance absolutely prohibits the distribution of any literature of any kind within the limits of the City of Griffin without the permission of the city manager and is therefore arbitrary and in violation of said quoted Amendments," quoting paragraphs one and two of the Fourteenth Amendment to the Constitution of the

United States, containing the "due process of law" clause, [fols. 43-59] in that said ordinance vested uncontrolled and unrestrained arbitrary power in the City Manager of the City of Griffin with reference to granting or refusing permits to appellant in the exercise and practice of her religion.

7. In holding that said ordinance was valid, in that said ordinance has the effect of making any act of the character described in said ordinance illegal whether the act be harmless in its nature and in that the arbitrary decision of the City Manager of the City of Griffin under said ordinance is left unrestrained without any standard or guidance with respect to the character of literature circulated or distributed, and providing no adequate method of securing relief from the arbitrary decisions of City Manager.

For which errors the plaintiff, Alma Lovell, prays that the said judgment of the Court of Appeals of the State of Georgia, in the above entitled cause, be reversed and a judgment rendered in favor of said plaintiff, and for costs.

O. R. Moyle, Grover C. Powell, Counsel for Appellant.

[File endorsement omitted.]

[fol. 60] IN SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS TO BE RELIED UPON AND DESIGNATION AS TO PRINTING RECORD—Filed September 7, 1937

1

The appellant, Alma Lovell, pursuant to paragraph 9 of rule 13 of the Supreme Court, adopts the assignment of errors as the statement of the points required by rule 13.

2

The following parts of the record are indicated by appellant as necessary for the consideration of the points at issue in the above styled case:

(a) Bill of exceptions dated July 3, 1936 together with exhibit (a) attached to said bill of exceptions, said exhibit

(a) being writ of certiorari to a judgment of William H. Beck, Jr., Recorder of the City of Griffin, entered on the 29th day of June, 1937.

(b) The judgment and opinion of the court thereon entered by the Court of Appeals of Georgia on March 11, 1937.

(c) Judgment of the Supreme Court of Georgia dated May 18, 1937 denying a petition for certiorari filed by Alma Lovell, plaintiff in error to review and set aside the final judgment of the Court of Appeals of Georgia.

(d) Assignment of errors to the Supreme Court of the United States.

(e) Statement of jurisdiction accompanying appeal to the Supreme Court.

O. R. Moyle, 117 Adams St., Brooklyn, N. Y., Grover C. Powell, 1459 Peachtree St., Atlanta, Ga., Counsel for Appellant.

Due and legal service of the foregoing statement acknowledged, copy received, and all further and other service waived.

This the 13 day of July, 1937.

J. O. Futral, Pope F. Brock, Counsel for Appellee.

[fol. 61] [File endorsement omitted.]

Endorsed on cover: Enter O. R. Moyle. File No. 41,872. Georgia Court of Appeals. Term No. 391. Alma Lovell, appellant, vs. The City of Griffin. Filed September 7, 1937. Term No. 391, O. T., 1937.